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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,980	02/20/2004	Sreedhara Narayanaswamy	063170.6595	7138

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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

EXAMINER

MITCHELL, JASON D

ART UNIT	PAPER NUMBER
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2193

NOTIFICATION DATE	DELIVERY MODE
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10/13/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Advisory Action Before the Filing of an Appeal Brief	Application No. 10/782,980	Applicant(s) NARAYANASWAMY ET AL.	
	Examiner JASON MITCHELL	Art Unit 2193	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 August 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☒ Applicant's reply has overcome the following rejection(s): 35 USC 101 rejection of claims 13-16.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1-6, 8-18 and 21-23.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
 13. ☐ Other: _____.

/Jason Mitchell/
 Primary Examiner, Art Unit 2193

Continuation of 11. does NOT place the application in condition for allowance because:

In the par. bridging pp. 9 and 10 the applicants state:

Aigen specifically discloses that a user "specifies . . . the application server on which the application will be run." (Aigen, Column 3, lines 40-42). Thus, an initial point of distinction, Applicants note that Aigen merely discloses that a user specifies the particular server. Aigen does not disclose "retrieving type information . . . from a deployment server," as recited in Claim 1. Additionally, because Aigen only discloses that the user specifies the specific server and not the type, Aigen also does not disclose that "the type information identifi[ies] a type of application server installed on one or more nodes to which to deploy the program units," as recited in Claim 1.

The examiner respectfully disagrees. First, as claimed the term 'type' is broad. Specifically, Aigen at least teaches identifying a type of server wherein each server comprises its own unique type and thus meets the broadest reasonable interpretation of the claim. Further, to the extent that Aigen's identification is used to generate the deployment descriptors it would at least have been obvious to, in some way (e.g. through querying a database, or additional user input), identify a broader type (i.e. oracle or sql server). Second, while Aigen discloses user input specifying the 'type' (i.e. server) BEA discloses retrieving similar information from a file (e.g. pg. 6-2, 1st par. "the host ... contains the physical files that describe the cluster, enterprise application, and other supporting services"; note the similarity to Aigen col. 3, line 67-col. 4, line 3 "reads the meta-data"). Accordingly, in combination BEA and Aigen teach the claimed limitation. Additionally, it is noted that the "automatically, and without user input" limitation applies to the "generating a script" and not strictly to the gathering of information required to generate that script. Accordingly because Aigen generates the script programmatically it would appear to meet, at least, a reasonably broad interpretation of the claimed limitation even without the teachings of BEA.

Starting in the second half of the first full par. on pg. 10, the applicants state:

...Additionally, the cited portion merely discloses that a descriptor file generates a deployment descriptor and a batch file generates a batch script. Aigen does not disclose "generating a script to use a specific utility of the application server for generation of deployment descriptors," as recited in Claim 1.

Furthermore, because Aigen discloses that AGCommand or AGDeploy files must be generated for the "specific application server," Aigen indicates that a generic deployment descriptor and a generic batch script are generated. It is the AGCommand and/or AGDeploy files that allow the EJB's to be integrated into the particular applications server. Accordingly, Aigen and the proposed BEA-Aigen combination does not disclose, teach, or suggest "automatically, and without user input, generating a script to use a specific utility of the application server for generation of deployment descriptors from the type information retrieved from the deployment server, the deployment descriptors suitable for the type of application server," as recited in Claim 1.

The examiner respectfully disagrees. Specifically, the examiner does not agree that Aigen is generating generic deployment descriptors and batch script. First it is noted that merely because the AGCommand and AGDeploy files are generated for the "specific application server" it does not logically follow that the deployment descriptor and batch script are not also generated for the "specific application server". For one thing why would Aigen require identification of the specific server prior to generating the deployment descriptor and batch script files. Those of ordinary skill in the art would understand that a generic file could simply be 'retrieved' and need not be generated. More specifically, Figs. 9A-C and 10 (and the corresponding discussion) disclose server specific details included in the deployment descriptor and batch script (see e.g. 1950 "... Name of Its Corresponding Table"; 2125 "... Each Selected Table").